S.B.Criminal Misc. Petition No. 340/2005
(Shiv Prasad & Ors. Vs. State of Rajasthan and Anr.)

Date of order : 04.07.2006

HON'BLE MR.H.R.PANWAR,J.

Mr. J.S.Choudhary, for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.

By the instant criminal misc. petition, the petitioners have challenged the order dated 03.12.2004 passed by Additional Sessions Judge, Parbatsar (for short 'the revisional court' hereinafter) in Criminal Revision No.31/2004 whereby the revisional court dismissed the revision filed by the petitioners against the order dated 07.2.2004 passed by Judicial Magistrate, Makrana (for short 'the trial court' hereinafter) taking cognizance of the offences and issuing process against the petitioners and affirmed the order of the trial court.

I have heard learned counsel for the petitioners and public prosecutor for the State. Perused the orders impugned passed by the trial court as also the revisional court.

The petitioners have already availed one revision. A second revision is barred by sub-section (3) of Section 397 Cr.P.C. The petitioners seek second revision in the garb of a petition under Section 482 Cr.P.C. Even on merit, there is evidence of the

complainant supported by statements of witnesses namely Babulal, Ramjan, Hussain and Vijay Laxmi. All the petitioners have been named in the FIR. The report was lodged promptly. There are witnesses who made statements under Section 200 and 202 Cr.P.C. On the basis of statements of the witnesses, the trial court came to the conclusion that there is prima-facie ground to proceed against the petitioners for the offences under Sections 341, 147, 148, 323, 324, 325 and 452 IPC. In my view, the courts below concurrently found prima-facie case against the petitioners. From the perusal of the orders of both the courts below, it cannot be said that the orders impugned would result in manifest injustice and abuse of process of the Court.

Learned counsel for the petitioners contended that cognizance is barred by the period of limitation. From the perusal of the order impugned, it appears that a prompt report was lodged. It was the police who consumed time in investigating the matter and thereafter protest petition was filed by the complainant. The time consumed by the police and in the Court proceeding, cannot be said to be fatal to the complainant. Had the complaint itself been barred by period of limitation, the question of limitation under Section 468 Cr.P.C. would have arisen, but in the instant case, the complainant was not at fault at any rate and the period consumed by the investigating agency

and the court, cannot be reckoned for the purpose of computing the limitation.

In the circumstances therefore, in my view, there is no ground to interfere in the extra-ordinary jurisdiction under Section 482 Cr.P.C.

The criminal misc. petition lacks merit and is dismissed. Stay petition also stands dismissed.

(H.R.PANWAR), J.

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